IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 308 OF 2005

Narayan Gulabrao Kale ..Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri A.P.Mundergi with P.P.Runwal for the Applicant.
Shri K.V. Saste, APP for Respondent - State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 01,2005.

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. Indeed the complaint, as filed, does indicate the complicity of the applicant in the commission of the offence of embezzling or defalcation to the tune of Rs. 7,70,680/-. However, it is intriguing to note that the Executive Engineer proceeded to lodge the first information report in relation to the offence without making formal departmental enquiry much less awaiting for the final report of Hunshi Sarad S.K., Assistant Engineer, Class -1, who was entrusted to enquire into the matter about inappropriateness of the transaction in question. It is common ground that no

show cause notice was issued to the applicant nor any opportunity to offer explanation was afforded to him. The case of the applicant is that his duty was to undertake measurements and not to maintain muster rolls in respect of which doubt has arisen. There is nothing on record to suggest that before lodging the FIR in question, any formal approval of the higher authority was obtained as was required by the circular issued by the Government, referred to in communication dated 20.12.2004. Taking over all view of the matter, the applicant deserves to be granted anticipatory bail on the following conditions, especially when he is gazetted officer and is likely to suffer serious consequences in the event of arrest.

(a) The Applicant is granted anticipatory bail in connection with C.R.No. 151/2004, registered with Taluka Police Station, Solapur on executing personal bond in the sum of Rs. 10,000/- (Rs. Ten thousand only) with two local sureties in the like amount.

(b) The Applicant shall abide by the conditions provided for under section 438(2) of the Cr.P.C. as application to the State of Maharashtra.

3. Ordered accordingly.

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